

Appl. No. 10/736,863
Amendment dated 2/15/2006

Remarks:

In the Office Action dated November 15, 2005, the Examiner rejected all claims under 35 USC §102 and/or §103 based on Keane (US 6,632,223) and/or Falkenberg (US 2004/0116965). In response, Applicants have amended independent claims 29 and 35 to more clearly distinguish over the cited art. In addition, Applicants have presented an explanation as to why independent claim 41 distinguishes over the cited art without amendment.

Independent claims 29 and 35 have been amended to recite that the tether is polymeric. Neither Keane nor Falkenberg disclose a polymeric tether connected to an anchor.

Keane does not disclose a polymeric tether connected to the stent. Keane discloses that the "stent remains electrically attached to the catheter, which carries an energy supply line, such as an RF cable or other energy conductor, or a cryogenic system, for supplying ablation energy or cryotherapy to the stent." (Column 2: lines 18-22.) Clearly a polymeric tether would not provide such electrical attachment.

Falkenberg does not disclose a tether connected to the stent, and certainly not a polymeric tether. The only element in Falkenberg that is connected to the stent 36 is the catheter 34, but this element cannot correspond to the claimed tether because it does not extend through the lumen of an electrical lead as claimed, it merely extends through a guide catheter 30, which is not an electric lead. To the extent that the Examiner is relying on the guide wire 32 to correspond to the claimed tether, the guide wire 32 is neither connected to the stent nor polymeric.

Additionally, the "polymeric tether" limitation is similar to the "polymeric braid" language found in dependent claims 33 and 39 (now canceled) which the Examiner rejected

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under 35 USC §103 as being unpatentable over Keane and Falkenberg because Applicant does not disclose "any criticality and/or unexpected results and it appears that invention would perform equally well with any tether" (See page 4, paragraph 6; and page 5, paragraph 8.) Applicant submits that there is no legal requirement to disclose criticality, advantages or unexpected results of any feature. While these may be evidence of patentability, such are not required to be disclosed in the application. Nevertheless, the use of a polymeric tether may have one or more of the following advantages, for example: a polymeric tether may electrically isolate the anchor from the lead; a polymeric tether may provide flexibility and fatigue resistance; and a polymeric tether may allow easy removal of the lead (in case of infection, for example) by simply cutting the tether.

Independent claim 41 distinguishes over the cited art without amendment. The only cited basis for rejection is Falkenberg. However, Falkenberg does not disclose a tether connected to the stent, and certainly not a non-electrically conductive tether. The only element in Falkenberg that is connected to the stent 36 is the catheter 34, but this element cannot correspond to the claimed tether because it does not extend through the lumen of an electrical lead as claimed, it merely extends through a guide catheter 30, which is not an electric lead. To the extent that the Examiner is relying on the guide wire 32 to correspond to the claimed tether, the guide wire 32 is neither connected to the stent nor non-electrically conductive.

New claims 47-49 recite that the lead is an implantable pacing lead. Note that the cited references relate to ablation devices, not pacing devices.

By this Amendment, claims 33 and 39 have been canceled, claims 29 and 35 have been amended, and claims 47-49 have been added, leaving claims 29-32, 34-38, and 40-49 pending in

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the application. Reconsideration and allowance of all pending claims is respectfully requested.
Any inquiry regarding this matter may be directed to the undersigned representative at (612)
226-3874.

Respectfully submitted,
Atkinson et al.
By their attorney,

Date: 2/15/06



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